

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

WANKE CASCADE DISTRIBUTION, LTD.,  
an Oregon corporation,

3:13-cv-00768-AC

ORDER

Plaintiff,

v.

FORBO FLOORING, INC., a Delaware  
corporation,

Defendant.

BROWN, Judge.

Magistrate Judge John V. Acosta issued Findings and Recommendation (#103) on March 16, 2015, in which he recommends this Court grant Defendant's Motion (#87) for Extension of Time to Answer Second Amended Complaint, grant Plaintiff's Motion (#78) to Strike New Allegations with regard to the reference to Plaintiff's breach of its contract with Defendant in paragraph 34 of the Answer, and deny Plaintiff's Motion to Strike in all other respects. The matter is now before this Court pursuant to 28

U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b).

Because no objections to the Magistrate Judge's Findings and Recommendation were timely filed, this Court is relieved of its obligation to review the record *de novo*. See *Dawson v. Marshall*, 561 F.3d 930, 932 (9th Cir. 2009). See also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)(*en banc*). Having reviewed the legal principles *de novo*, the Court does not find any error.

### **CONCLUSION**

The Court **ADOPTS** Magistrate Judge Acosta's Findings and Recommendation (#103). Accordingly, the Court **GRANTS** Defendant's Motion (#87) for Extension of Time to Answer Second Amended Complaint. The Court also **GRANTS** Plaintiff's Motion (#78) to Strike New Allegations with regard to the portion of paragraph 34 of Defendant's Answer that refers to a breach of contract and **DENIES** Plaintiff's Motion to Strike in all other respects.

The Court directs Defendant to file no later than **May 1, 2015**, an amended answer that does not contain the reference to a breach of contract and that also moves the IVC allegations to the

mitigation-of-damages paragraph. The matter is referred back to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

DATED this 17<sup>th</sup> day of April, 2015.

/s/ Anna J. Brown

---

ANNA J. BROWN  
United States District Judge